

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JOHN W. STOUT, #1314715

VS.

DIRECTOR, TDCJ-CID

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CIVIL ACTION NO. 4:22cv3

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge Christine A. Nowak, who issued a Report and Recommendation concluding that the petition for writ of habeas corpus should be dismissed without prejudice for failure to prosecute because Petitioner failed to comply with the Court’s Order to submit a completed § 2254 standard form and to pay the \$5.00 filing fee or submit an application to proceed *in forma pauperis*. Petitioner filed a motion for appointment of counsel (Dkt. # 8),¹ which the Court construes as objections to the Report. Therein, Petitioner asserts that he is incompetent and “unable to handle [his] case properly.” The Court understands Petitioner to be alleging that he is unable to complete the standard 28 U.S.C. § 2254 form or pay the \$5.00 filing fee or submit an application to proceed *in forma pauperis* because he is incompetent. Petitioner fails to explain why his alleged incompetency has prevented him from completing the standard § 2254 form or paying the filing fee or submitting an application to proceed *in forma pauperis* but has not prevented him from filing other coherent pleadings in this case. Petitioner fails to show the Report and Recommendation is in error.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Having

¹ The Court also separately denied the motion for appointment of counsel. (Dkt. # 9).

made a *de novo* review of the objections raised by Petitioner to the Report, the Court concludes that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

It is accordingly **ORDERED** the petition for a writ of habeas corpus is **DISMISSED** without prejudice.

It is further **ORDERED** that all motions not previously ruled on are hereby **DENIED**.
SIGNED this 22nd day of April, 2022.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE